

A witness may be discredited or "impeached" by contradictory evidence, by a showing that he or she testified falsely concerning a material matter, or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness' present testimony.

You should remember that a simple mistake by a witness does not necessarily mean that the witness was not telling the truth. People may tend to forget some things or remember other things inaccurately. If a witness has made a misstatement, you must consider whether it was simply an innocent lapse of memory or an intentional falsehood, and that may depend upon whether it concerns an important fact or unimportant detail.

If you believe that any witness has been impeached, then it remains your exclusive province to give the testimony of that witness such credibility or weight, if any, as you may think it deserves.

Instruction No. 18

Damages • Compensatory Damages

If you find that the Defendant unlawfully required a medical exam, or intentionally discriminated against Mr. Jackson, or if you find that the Defendant received disability or unlawfully retaliate against Mr. Jackson, then you must determine an amount of money that is fair compensation for Mr. Jackson's damages. You may award compensatory damages only for injuries that Mr. Jackson proves to you were caused by the Defendant's allegedly wrongful conduct. The damages that you award must be fair compensation, no more and no less. In calculating damages, you should not consider any back pay that the Plaintiff lost. The award of back pay, should you find the Defendant liable, will be calculated and determined by the court.

You may award Mr. Jackson compensatory damages, based on the evidence admitted or introduced at trial, for emotional pain and suffering, inconvenience and mental anguish.

You may award damages for any pain, suffering, or mental anguish that the Mr. Jackson experienced as a consequence of the Defendant's conduct. No evidence of monetary value of such intangible things as pain and suffering has been, or need be, introduced into evidence. There is no exact standard for fixing the compensation to be awarded for these elements of damages. Any award you make should be fair in light of the evidence presented at trial.

In determining the amount of any damages that you decide to award, you should be guided by dispassionate common sense. You should use discretion in fixing any award for damages, drawing reasonable inferences from the facts in evidence. You may not award damages based on sympathy, speculation or guess work. On the other hand, the law does not require that Mr. Jackson prove the amount of his losses with mathematical precision, but only with as much definiteness and accuracy as circumstances permit.